

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

RESIDENTIAL CAPITAL, LLC, et al.,
Post-Effective Date Debtors

Chapter 11

RESCAP BORROWER CLAIMS TRUST,
Objector

Case No. 12-12020-mg

v.

TIA DANIELLE SMITH,
Creditor-Beneficiary

REQUEST FOR DISCOVERY DISPUTE CONFERENCE
(CLAIM NOS. 3889, 4129, 4134 AND 4139)

Tia Danielle Smith, by her attorney, Wendy Alison Nora of ACCESS LEGAL SERVICES, brings this preliminary Motion to inform the Court that a discovery dispute has arisen, which could not be resolved. The deadline for discovery under the Scheduling and Case Management Order is today, December 22, 2015. Counsel met and conferred this afternoon and were unable to resolve their differences. A message has been left with the Courtroom Deputy to schedule a telephone conference with the Court to resolve the dispute. The Borrower Claims Trust has objected to many of Ms. Smith's discovery requests on the basis that the requests seek information that is outside the scope of the "narrow" issue of the Ms. Smith's surviving claim for violations of the California UCL at California Business and Professions Code at sections 17200-17210. Ms. Smith's position is that the UCL embraces most of her issues which were previously held time-barred (subject to appeal from the any final order, if warranted). CA BPC section 17200 provides:

17200. As used in this chapter, **unfair competition shall mean and include any *unlawful, unfair or fraudulent* business act or practice** and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. (Emphasis added.)

The discovery to which the Borrower Claims Trust has objected is pertinent to the very foregoing provision of the California UCL and is necessary to allow Ms. Smith to prepare for and proceed to the evidentiary hearing now set for February 9, 2016.

WHEREFORE, Ms. Smith requests a discovery dispute resolution conference at the Court's earliest convenience.

Dated at Madison, Wisconsin this 22nd day of December, 2015.

/s/ Wendy Alison Nora

Wendy Alison Nora
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